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HUMAN RIGHTS COMMITTEE

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SUMMARY RECORD OF THE 1080th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 18 July 1991, at 3 p.m.

Chairman: Mr. POCAR

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The meeting was called to order at 3.10 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (continued)

Third periodic report of Iraq (CCPR/C/64/Add.6)

1. At the invitation of the Chairman, Mr. Mahmood, Mr. Yousif and Mr. Hussein (Iraq) took places at the Committee table.

2. The CHAIRMAN recalled the Committee's decision of 11 April 1991 requesting the Government of Iraq to submit its third periodic report without further delay to be discussed at its forty-second session, with special reference to the application of articles 6, 7, 9 and 27 of the Covenant. The Government of Iraq deserved thanks for its timely and cooperative response to that request.

3. Welcoming the Iraqi representatives, he invited Mr. Dhari Khalil Mahmood, Director-General at the Ministry of Justice, to introduce his country's third periodic report (CCPR/C/64/Add.6).

4. Mr. MAHMOOD (Iraq) said that he was pleased to see representatives of the media in the Committee room. Remarking that a visit to Iraq would have enabled them to ascertain that all citizens were free to express themselves without constraint, he voiced the hope that the interest they had shown by attending the current meeting would be reflected in faithful reporting of the information that would be provided.

5. Iraq's response to the Committee's special request should be seen as a token of its willingness and determination to pursue a frank and constructive dialogue with all United Nations bodies concerned with human rights - and more especially the Human Rights Committee - in its efforts to enhance the implementation of the Covenant, which for reasons known to all could not be claimed to have been exemplary in recent times. He hoped that the coming exchange would produce positive results. As requested, he would report in greater detail on the application of articles 6, 7, 9 and 27; but he wished first to make some remarks of a more general nature.

6. After the cease-fire in the armed conflict with Iran, in August 1988, a serious review had been undertaken of all the measures necessitated by the armed struggle, with the aim of enabling citizens to exercise their rights and freedoms without discrimination. That effort had been resumed after the cease-fire in the war waged by the anti-Iraq coalition early in 1991. Readers of the third periodic report would note that it laid greater emphasis than its predecessors on measures in support of the judiciary and of its role in protecting human rights. Recalling that an important development had been the dissolution of the Revoluntionary Court in favour of the ordinary courts, he called particular attention to the account contained in paragraph 30 of the report, concerning judgements punishing officials convicted of practising torture. Other recent positive developments had included the lifting of travel restrictions, and of restrictions on reporting by foreign journalists and news agencies, as well as the easing of other controls related to the press. Within the past few days, the National Assembly had adopted a new law

on the freedom of political parties, the provision of which he described in some detail: one of its pillars was respect for the constitutional rights of citizens and for their human rights under the international instruments to which Iraq was a party. Such express embodiment of concern for human rights in national legislation demonstrated yet again Iraq's attachment to those rights, as did another law permitting appeals against decrees and decisions before the Court of Cassation.

7. The victim of a destructive war waged by the coalition States, Iraq had seen its infrastructure devastated: the effects on the civilian population had been dramatically conveyed in the report of the Under-Secretary-General of the United Nations to the Security Council on 30 March 1991: extracts would be found in paragraph 19 of the report by Iraq before the Committee. At the same time, Iraq had been subjected to an orchestrated campaign of hostility by the Western media, in obvious violation of article 20 of the Covenant. The riots which had broken out after the cease-fire had constrained the State to exercise its authority in restoring order; joint efforts with the United Nations had led to the signature, in April, of a memorandum of understanding with Prince Sadruddin Aga Khan, the Executive Delegate of the Secretary-General for the United Nations Humanitarian Programme for Iraq, Kuwait and the Iraq/Iran and Iraq/Turkey Border Areas, concerning the voluntary repatriation of Iraqi refugees and other humanitarian measures; that undertaking had been obstructed by the unjustified American-European military intervention in northern Iraq. The lifting off the economic embargo, and particularly of the food blockade, imposed in implementation of Securit Council resolution 661 (1990), was fully justified by Iraq's compliance with its provisions; yet that, too, was being opposed in a deliberate attempt to aggravate Iraq's difficulties; inadmissible calls were even being made for a change of regime in the country: several statements to that effect were quoted in paragraph 94 of the third periodic report.

8. Calling attention to Prince Sadruddin Aga Khan's very recent statement on the gravity of the situation, and reiterating that determined efforts were being made - in flagrant violation of article 1 of the Covenant - to deprive Iraq and its people of their means of livelihood, he said that human rights, whether economic, social and cultural or civil and political, were indivisible. It was now incumbent on the international community - which had been responsible for imposing the sanctions in the first place - to cooperate with Iraq in creating conditions for the full exercise of those rights by the people.

9. In response to the Committee's special request for information concerning the application of certain articles of the Covenant, and beginning with article 6, he said that replies, drawn up on the basis of the Committee's guidelines, would be found in four sections of the third periodic report, (paras. 23-29), the contents of which he briefly summarized. Violation of the right to life as a result of war was the subject of the first section. The consequences of the riots already mentioned in the report under article 1 were described in the second section; the economic blockade against Iraq and its effect on the right to life, to which he had already alluded in some detail, was the subject of the third section, where the figure concerning the deaths of children should be updated to read 6,000; in that connection, he added that the lives of 160,000 children or more were currently at risk. Legislative

developments since the second periodic report were described in the fourth section: he had highlighted a number of those measures at the beginning of his statement, and the comments related to article 6 were also relevant.

10. Iraq's reply concerning the application of article 7 and the prohibition of torture was contained in paragraphs 30-33 of the report, which he also summarized.

11. The application of article 9 of the Covenant, concerning the right to liberty and freedom from arbitrary arrest, was discussed in detail in paragraphs 36-43 of the report, which should be read in conjunction with the section under article 14. He stressed that more than 21,000 persons had benefited from general amnesty decisions issued in the period between the second and third periodic reports.

12. He drew the Committee's attention to paragraphs 47-58 of the report, which dealt with legislative developments in the role of the judiciary in protecting the rights of litigants in criminal and civil cases. There, the accent was laid on practical measures; he singled out the strengthening of the role of the courts, and the broadening of the mandate of the Director of Public Prosecutions. Describing the establishment of the Administrative Causes Court (paras. 52-56), he drew particular attention to the annexed examples of decisions by that Court. Lastly, he referred again to the dissolution of the Revolutionary Court after an earlier limitation of its powers (paras. 57-58): that was an important example of decisions taken in the course of the comprehensive review of the measures that had been dictated by exceptional circumstances, and as part of the overall effort to strengthen the role of the courts in protecting human rights.

13. The Committee's call for special information concerning the application of article 27 and the rights of minorities was the subject of a lengthy response in paragraphs 76-91 of the report, which should be read in conjunction with the reply under article 18 (paras. 59-62) on respect for the freedom of thought, conscience and religion and the strengthening of the rights of religious minorities.

14. On the basis of its wealth of experience, Iraq was committed to the principle of national unity based on non-discrimination among citizens as a fundamental element of the Constitution and of domestic as well as international law. A second fundamental principle was that the sovereignty of the country and its territorial unity and integrity must be respected and that there must be no interference in its internal affairs. Kurdish Iraqi citizens had enjoyed autonomy within the territorial limits of the State since 1974: full details had been provided in Iraq's second periodic report to the Human Rights Committee and in its ninth periodic report on the implementation of the Convention on the Elimination of All Forms of Racial Discrimination. The report now before the Committee reviewed in considerable detail developments affecting Kurdish Iraqi citizens in the Autonomous Region as a consequence of the armed conflict with Iran in 1988, the war waged by States of the anti-Iraq coalition in 1991 and the ensuing disturbances. Special reference was made to the complications resulting from the armed conflict with Iran after the cease-fire of August 1988 and from riots in northern Iraq after the cease-fire

in the Gulf war in March 1991; he had already referred to the memorandum of understanding reached with the representative of the United Nations concerning the repatriation of refugees, and to the negative effects of the American-European intervention in that part of the country.

15. In conclusion, he expressed the hope that the report would be seen as a reflection of Iraq's serious will to apply to the best of its ability the provisions of the International Covenant on Civil and Political Rights, and its belief that the international community had an important role to play in helping to remove the obstacles to that process. The Iraqi representatives stood ready to reply to questions raised in the list of issues, although it had only been received the previous day; they would also respond to any other questions which members of the Committee might wish to raise.

16. The CHAIRMAN, thanking the representative of Iraq for his presentation, invited him to respond to the questions raised in the list of issues, beginning with section I.

I. Right to life (article 6)

(a) Please comment on the effect of the events since 2 August 1990 on the discharge by Iraq of its international obligations under the Covenant, in particular of its obligations to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized therein.

(b) Is the Decree of the Revolutionary Command Council No. 840 of 1986, prescribing severe penalties for offences against the President, still in force?

(c) How often and for what offences has the death penalty been imposed since the consideration of the second periodic report of Iraq? How often has the death penalty been carried out?

(d) With reference to paragraph 29 of the report, please provide information on legal remedies available to persons sentenced to death.

(e) (i) Have there been any violations of the rules and regulations governing the use of firearms by the police and security forces and, if so, what measures have been taken to prevent their recurrence?

(ii) What disciplinary and other measures have been taken against those found guilty?

(f) Have any investigations been actually carried out in respect of alleged disappearances of individuals and killings of persons in the course of military operations by the Iraqi armed forces and, if so, with what results?

(g) Please provide details about the redress being made available in respect of casualties and disappearances in Kuwait following the events of 2 August 1990. Please provide details about the redress being made available for damages to the right of life resulting from the deliberate setting on fire of oil wells.

17. Mr. MAHMOOD (Iraq) said that, before dealing with the Committee's detailed questions, he wished to clarify two important legal points. First, the Kuwait crisis had been the subject of several Security Council resolutions, which Iraq had accepted and would be implementing responsibly and with good will. Matters which were still pending before the Security Council could not be regarded as within the Committee's competence. He was not therefore prepared to attempt to answer question (g). Secondly, the obligations incumbent on States parties and those of the international community as a whole were closely interlinked. The third periodic report of Iraq contained a detailed account of the many and various obstacles which stood in the way of Iraq's implementation of its obligations under the Covenant; quite a number of those difficulties stemmed from the war waged on Iraq by the coalition, the economic blockade which had not yet been lifted and the riots and disturbances on Iraqi soil fostered from outside the country. Threats to the right to life, manifested in the form of shortages of food and medicine, for example, were partly to be laid at the door of the international community. Six thousand children had died already and a further 160,000 were seriously at risk. The destruction inflicted on the population of Iraq, in particular children, the elderly and the sick, was something which the Committee could not and should not overlook.

18. In regard to question (a), again he had to say that the international community had been slow to discharge its legal and humanitarian obligations. On question (b), he confirmed that Revolutionary Command Council Decree No. 840 of 1986 was still in force, but in common with other legislation promulgated during the emergency it was under review by a high-level committee. Concerning item (c), since the list of issues had only been received by his delegation the previous day, no details could be given of which offences still carried the death penalty. In regard to the legal remedies available to persons sentenced to death (subsection (d)), the criminal courts were obliged to report to the Public Prosecutor, for automatic transmission to the Court of Appeal, all cases in which the death penalty had been imposed. Prisoners under sentence could also appeal directly. Death sentences could not be implemented without a Decree of the Republic being passed, and sentenced persons had the right of appeal to the President of the Republic. In regard to item (e), rules were in force governing the use of firearms, but in the disturbed and uncertain situation following the end of the Gulf war, Iraq had been obliged to use the armed forces to put down insurrections and maintain the sovereignty of the State. A number of casualties had occurred both among rioters and among the armed forces. Disappearances of individuals and killings of persons, referred to in question (f), were mainly the work of rioters. A number of mass graves had been found, one very recently close to the frontier with Iran. Some persons who had been reported to have disappeared, had in fact fled the country.

19. Mr. HOUSHMAND (Representative of the Secretary-General) said that the English text of the list of sssues had been collected by the Permanent Mission of Iraq in Geneva at the end of the previous week and the Arabic translation on Monday, 15 July. It was therefore not clear why the list had only been received by the Iraqi delegation the day before it was due to appear before the Committee.

20. Mr. SADI asked whether Iraq's declaration of a state of emergency and imposition of martial law, which had led to the suspension of the implementation of its obligations under the Covenant, had been due to events during the Gulf war.

21. Mr. AGUILAR URBINA said that States parties could not evade their obligations under the Covenant by attempting to put the blame on the international community. The Committee was well aware of the situation and a fruitful dialogue with the delegation would only be possible if members of the Committee spoke their minds frankly. The delegation's claim regarding duplication of responsibilities and possible overlapping between the Security Council and the Committee could not be sustained. The Committee was not an organ of the United Nations. It was a treaty body under the Covenant and was appointed by and responsible to States parties. Furthermore, the Committee's concern was largely with events occurring before - even long before - the Gulf war. Governments and non-governmental organizations had received reports of serious violations of the Covenant, including summary executions. If those reports were accurate, as they appeared to be, they would constitute a major contravention of article 14, the right to a fair trial, and of article 6, the right to life itself. Many sources had spoken of extrajudicial executions and disappearances, especially of Kurds and Shiite Muslims. Had any investigations been carried out? It had further been alleged that membership of the Islamic Da'wah Organization carried an automatic death penalty in Iraq. Noting that Mr. Saddam Hussein had recently spoken in public about the prospects of a multiparty democracy, he asked whether that organization would be eligible as an officially recognized party.

22. Mr. ANDO fully agreed with Mr. Aguilar Urbina in regard to the status and obligations of the Human Rights Committee. The Committee's function was, moreover, to find out what difficulties Iraq was facing in implementing its obligations under the Covenant and it was quite clear that most of those difficulties had been occasioned by the Iraqi Government itself and certainly not by the international community. He observed that question (e) was a standard question which the Committee put to all States parties; in the present case it related not to the aftermath of the Gulf war but to the whole period covered by the report, dating back to 1986.

23. Mr. FODOR said that, according to paragraph 29 of the report, the Iraqi authorities had undertaken an in-depth review of all the legislation made necessary by the emergency situation. He would like to know the date on which that in-depth review began. The fourth sentence in paragraph 4 of the report might appear to indicate that the starting date was the cease-fire in the war with Iran in 1988, although paragraph 7 suggested that it might have been 19 May 1991, when the Revolutionary Command Council adopted a decision abolishing the Revolutionary Court. If the review had started on the earlier date, had any provisions of the emergency legislation been amended?

24. According to paragraph 26, the Iraqi Ministry of Health had announced in January 1990 the deaths of 2,042 children as a result of shortages of food and medicine. The conclusion could be drawn from that statement that Iraqi children had been dying due to shortages of food and medicines in 1989, if not

earlier, at a time when there had been no war to complicate the issue and when Iraq had certainly not belonged to the category of the poorest and least developed of the developing countries.

25. Mr. EL SHAFEI said that the Committee had expected the report of Iraq to be consistent with the requirements of the Covenant. However, the report fell short of the Committee's expectations and did not provide the necessary information. For example, Part One referred essentially to the intervention by the coalition and covered the developments that had taken place since 2 August 1990.

26. In response to the points raised by the Committee in the list of issues, members had been told that the questions came within the competence of the Security Council, not the Committee. However, it was the duty of the Committee to be informed of events. He noted that the head of the Iraqi delegation had introduced the report by making a political statement. The questions put were within the Committee's competence and the list of issues had been drawn up in accordance with the Covenant. He stressed the need for the questions to be answered in order to establish a constructive dialogue between the Committee and Iraq.

27. Mr. MYULLERSON welcomed the delegation of Iraq to the Committee and thanked it for its introduction of its Government's third periodic report.

28. He noted the political and constitutional developments mentioned in Part One of the report and would refer to them at a later stage. At the present time, he wished to make a few preliminary remarks. The current situation in Iraq was highly unfavourable for the protection of civil and political rights as well as of economic and social rights. He could not agree with the explanations for that situation given in paragraph 3 of the report. The war had begun not in January 1991, as stated in various parts of the report, but on 2 August 1990. The root cause of the difficulties facing Iraq lay in the Iraqi intervention in Kuwait on 2 August 1990 and not in the counter-action undertaken by the international community.

29. He fully agreed with members who had stressed that all the questions in the list of issues, including those on the right to life, were pertinent and concerned the Covenant. If the delegation could not provide answers at the present time, he hoped that it would do so as soon as possible.

30. With regard to article 6 of the Covenant, he referred to the use of chemical weapons by Iraq in 1987. In that connection, he said that reports by various non-governmental organizations contained considerable information concerning the use of weapons of mass destruction by Iraq and he would like to know the Iraqi Government's reaction to those allegations.

31. The use of foreigners as human shields during the war in 1990 was well known. Following Iraq's occupation of Kuwait, many foreigners had been detained and their lives had been placed in jeopardy. Mention should also be made of Mr. Ian Richter, a foreigner who had been tried in Iraq in 1987. During his arrest and trial, articles 9 and 14 of the Covenant had been

violated and he had been forced to sign documents in Arabic, a language he did not understand. It would be interesting to know the current status of Mr. Richter's case and whether he would soon be released.

32. Mr. HERNDL associated himself with members of the Committee in thanking the delegation of Iraq for its introduction of its Government's report. He had taken note of the statement that in Iraq there was a serious will to improve the implementation of the provisions of human rights instruments and a determination to abide by the obligations assumed under the Covenant. In that connection, he said that the report did not fully meet the requirements laid down in article 40 (1) of the Covenant. The report concentrated not on the measures adopted by the Government of Iraq in the field of human rights and on the progress made in the enjoyment of those rights but rather on the actions of others. What the Committee wished to know was what the Government had done to implement the provisions of the Covenant and whether account had been taken of the views expressed by the Committee in its consideration of Iraq's previous report.

33. Furthermore, the report was supposed to cover the period from 1 January 1986 to 31 May 1991, but in fact it focused on a very recent situation resulting from events which had taken place on 2 August 1990 and neglected the period preceding that date.

34. The section on the right to life in the report concentrated on certain actions connected with the recent war and it was only in subsection 4 on legislative developments to protect the right to life since the second report that mention was made of the steps taken by the Government to protect that right. The last sentence of paragraph 29 of the report referred to Iraq's full cooperation with the Special Rapporteur on summary executions, but it was the Special Rapporteur himself who had drawn attention to a number of horrible executions in Iraq, a matter not mentioned in the report. The report said nothing about the measures that the Government might have taken to prevent such arbitrary and extrajudicial executions.

35. He also wished to draw attention to the fact that Iraq had used chemical weapons against its own nationals. The use of such weapons could only be arbitrary and he wondered whether the delegation could explain that indiscriminate action.

36. The report was extremely vague with regard to measures adopted to ensure protection of the right to life in connection with the recent "riots". He would welcome clarification of the statement made in the report that the State had taken appropriate measures to reinstate its authority. He wondered whether the Government had observed judicial procedures and all relevant legislation in so doing.

37. Mrs. HIGGINS said she fully agreed with the other members that the Committee was competent to put questions and to receive answers. The Security Council did not deal with the International Covenant or monitor compliance with article 6 of that instrument. On the other hand, the Committee did not deal with questions within the competence of the Security Council. It was, of course, for the Security Council to say whether conditions now existed that would allow for the lifting of sanctions.

38. Article 2 (1) of the Covenant could not mean that where an invasion had taken place, a State was entitled to say that it was free to abrogate the rights of the persons temporarily under its control and that the matter was beyond the competence of the Covenant and the Committee. With regard to the reference by the delegation to "interference in internal affairs", she wished to make it clear that human rights were not internal matters. Not only was that true as a general proposition, but the Committee had its own treaty responsibilities in that regard.

39. Referring to the list of issues, she noted that no reply had been given to section I (c) relating to the death penalty. In that connection, it ought to have been clear from the Committee's consideration of the previous periodic report that that question would be a matter of major and ongoing interest to the Committee. She therefore hoped that it would be possible for the Committee to receive answers to that question before the end of its current dialogue with the Iraqi Government.

40. She would welcome clarification concerning the statement in paragraph 29 of the report that the emergency situation had forced the State to consider as "most serious crimes" some acts that might not qualify as such under normal circumstances. She would like to know what acts had been added to that long list. As the laws in that area were being reviewed, she asked whether that meant that the expansion of the "most serious crimes" category under the emergency would be ended and that there would be a return to the status quo ante.

41. With regard to extrajudicial killings in the pre-war period, there were questions which still required answers and she would welcome comments in that regard.

42. As to extrajudicial executions in the post-war period, information from a variety of sources indicated that several hundred civilians had been killed in the Kirkuk region and that residential areas in the Kurdish sector had been subjected to massive aerial bombardment. Furthermore, information from a wide variety of sources revealed that a significant number of summary executions had taken place. It seemed to her that it was not sufficient in the report merely to refer to those actions as though they were incidental to dealing with riots. First of all, there was the question of proportionality in handling riots and, secondly, there was the ongoing prohibition of acts against civilians or persons not engaged in the events concerned. All those acts fell within the scope of article 6 of the Covenant. Lastly, she would like to know what orders concerning standards of conduct had been issued to the military prior to the entry into Kuwait.

43. Mr. PRADO VALLEJO endorsed the comments made by previous speakers, commended the promptness with which the Iraqi Government had responded to the Committee's request for a third periodic report and welcomed the high level delegation to the Committee. While the Committee was in no way a tribunal, it had responsibilities to engage in a dialogue with the States parties in relation to guarantees of implementation of human rights. The report before the Committee was evidently intelligently prepared in full knowledge of the decisions and general comments of the Committee. The basis of the report

comprised events during the Gulf war, which were taken to justify the problems existing in Iraq in guaranteeing human rights there. Paragraph 23 of the report stated that the anti-Iraq coalition had violated the right to life. Indeed, it would be true to say that all wars violated that and other human rights. However, the international community had not provoked the war but had reacted to an act of force on the part of Iraq against Kuwait; in a situation of conflict, a peaceful legal settlement should always be sought, not the use of armed force against a neighbour. The right to self-determination of the Kuwaiti people had been violated, yet the report stated that it was the right of self-determination of Iraq which had been violated. It must be borne in mind in that context that the use of force in such cases was prohibited under international law, all the more so when it was unprovoked.

44. In the light of article 6 and the Committee's general comment thereon, it was a matter of concern that Iraq should reportedly be seeking to manufacture nuclear weapons. Furthermore, he asked the Iraqi delegation to comment on the reports that summary executions had taken place in Iraq before and after 2 August 1990, and, if those reports were accurate, whether there had been an investigation. He also requested the delegation's observations on reports that the right to life had been threatened in Kuwait during the occupation by Iraqi forces and that torture, killings and persecution had taken place.

45. He requested further information in connection with paragraph 24 of the report, which concerned riots and numerous disappearances, and pointed out that international law was applicable, even a state of civil war in order to guarantee basic rights. He asked what had been done to investigate cases of disappearance.

46. Concerning the abolition of the Revolutionary Court, referred to in paragraph 29 of the report, he asked for further details concerning persons who had been detained under the instruction of that Court. On the statement concerning the death penalty in the same paragraph, where it was said that the qualification of "most serious crimes" was a relative matter varying from society to society under different circumstances, it seemed to him that despite differences between societies, there existed a common denominator and universal rules which should be applied in all cases.

47. Mr. WENNERGREN expressed his appreciation to the Government of Iran for producing a third periodic report by the date requested. In addition to the comments made by previous speakers concerning the competence of the Committee, he observed that, while many matters included in the list of issues had a number of different dimensions, it was the dimension regarding compliance with the provisions of the Covenant that concerned the Committee and came within its mandate. Referring to question I (c), he recalled that, at the time of presentation of the second periodic report, he had asked for statistics to be made available subsequently in writing; he reiterated that request so that the Committee might know in how many cases the death penalty had been imposed by the Revolutionary Court and how many times it had been carried out.

48. Concerning question I (d) and the information provided by the representative of Iraq on the procedure relating to the death sentence, he asked whether the same procedure had applied when the Revolutionary Court had

existed and whether the Court of Cassation had been consulted before the President took a decision. Although the number of death sentences was not known, it was common knowledge that Farzad Bazoft had been convicted of espionage on 10 March 1990 and subsequently executed and that Jalil Mahdi Saleh al-Nu'aimi had also been sentenced to death on 20 April 1990 for having connections with secret intelligence organizations. There appeared to have been no right of appeal against those death sentences imposed by the Revolutionary Court, which was contrary to article 14 (5) of the Covenant, and he asked what had been the reasons for not permitting an appeal.

49. Mr. DIMITRIJEVIC, after welcoming the high-level delegation of Iraq, noted that the report showed that its authors well understood the role of the Committee; it was therefore rather surprising to hear that some questions in the list of issues could not be answered on the grounds that they overlapped with matters for consideration by the Security Council. The report itself showed that the Government of Iraq had taken the situation in the country after 2 August 1990 and the operations not only of Iraq against Kuwait but also of the multinational forces against Iraq to explain the difficulties in the human rights situation, especially the right to life. In view of that fact, it could hardly be maintained that the questions put by the Committee relating also to the most recent period were out of order or inappropriate. He therefore appealed to the representative of Iraq to make every effort to answer the Committee's questions despite the fact that they had not been received sufficiently far in advance to prepare precise replies. In addition to the events reported following 2 August 1990, including the riots, it appeared that there had been indiscriminate action by Iraqi forces against objects which could not have been connected with those riots and that there had been summary executions of persons supposedly involved in the riots. While it was not unknown for such things to happen when an army dealt with a situation which it considered to be an uprising, it was expected under the Covenant that the responsible officers and persons in charge should be brought to trial for their conduct, and disciplinary and criminal action taken. He requested further information from the delegation in that respect.

50. He noted that the report alluded to cooperation with United Nations special rapporteurs and in that respect he mentioned the information provided by the Special Rapporteur on summary or arbitrary executions concerning arbitrary, extrajudicial executions in 1980, to which previous speakers had also referred. He further pointed to the threat to life arising from the use of forbidden weapons, such as chemical weapons and napalm, and to suffering and loss of life connected with a project to create a buffer zone between Iraq, Iran and Turkey involving large-scale settlements. Another matter, also raised by previous speakers, concerned the use of hostages, not only as human shields but as a way of forcing alleged dissidents and opponents of the regime to surrender; he considered that the use of hostages was closely related to article 6, as it represented a threat to life against people who were by definition innocent in order to force others to take certain action.

51. Mr. NDIAYE congratulated the Government of Iraq on submitting its third periodic report so promptly and on sending a high-level delegation to the Committee. However, it seemed that Iraq had given with one hand and taken away with the other by questioning the competence of the Committee. The

structure of the report itself showed that the authors were acquainted with article 40 of the Covenant and the Committee's guidelines and were aware of the commitments of States parties under the Covenant. He therefore joined previous speakers in calling for at least oral replies to the Committee's questions.

52. Referring to paragraphs 12 and 16 of the report, which concerned the violation of the right to self-determination, he observed that while the right certainly formed part of jus cogens, so did the principle of non-aggression. Was it therefore to be understood that the right to self-determination of the Iraqi people was just and to be recognized, whereas the Kuwaiti people did not have the right to self-determination, or perhaps that it was only a part of the Iraqi population which had that right but that the population as a whole - including the Kurds and the Shiites - could not have the right to self-determination? The report further referred to the Protocols additional to the Geneva Conventions; in that respect, was not the use of chemical weapons banned or should it be banned only for States other than Iraq? Moreover, he considered that before mentioning the intervention of the coalition forces, the report might have provided more information on the events preceding that intervention, which might perhaps have explained what had happened subsequently.

53. Mr. SERRANO CALDERA joined previous speakers in expressing concern over the remarks made by the representative of Iraq concerning the competence of the Committee and possible overlapping with the work of the Security Council, not only specifically in respect of section I of the list of issues but also because of the risk that it might hamper dialogue with the Committee. The Committee was authorized to consider the matter before it under the terms of the Covenant and States parties were required to provide information in accordance with that instrument. He further joined previous speakers in requesting statistics concerning the death penalty and the frequency of its occurrence, as requested in section I (c) of the list. He also asked what measures were being taken to bring legislation and procedures into line with article 6 of the Covenant. While war and the circumstances arising therefrom certainly gave rise to a special situation, article 6 could not be suspended and in its internal legislation a State was still required to conform to that article. Lastly, he expressed concern at the content of paragraph 93 of the report, which stated that Iraq could not fulfil its responsibility to implement the Covenant in the face of a systematic and deliberate violation of its rights - a matter to which he would also wish to come back at a later stage - as it would appear a priori to represent an overall justification of any subsequent situation relating to the implementation of human rights guarantees.

54. Miss CHANET joined previous speakers in commending the Government for submitting its report on schedule and endorsed previous comments, particularly those of Mr. Ando, concerning the competence of the Committee; by signing the Covenant, Iraq had accepted the Committee's competence under that instrument.

55. Paragraph 4 of the report recalled that the second periodic report covered the period up to 31 December 1985. It therefore followed that the third periodic report should cover the period starting on 1 January 1986.

While the third report contained a great deal of information about the past year or so, however, it provided relatively little information for 1986-1990, during which period a number of serious events had taken place in Iraq. In the absence of information for those years in the report, she had had recourse to other sources, in particular to the information provided by the United Nations Special Rapporteur on summary or arbitrary executions and the Working Group on Enforced or Involuntary Disappearances. Paragraph 29 of the report stated that Iraq fully cooperated with the Special Rapporteur, yet the Special Rapporteur's report did not seem to reflect the same opinion. Moreover, the Working Group on Enforced or Involuntary Disappearances had referred to a large number of cases which had not been elucidated; in that connection, she asked the delegation of Iraq whether investigations were under way.

56. While statistics had not been provided concerning the death penalty, she hoped that the Iraqi delegation might be in a position to provide information concerning the application of that penalty to minors, in particular to 29 Kurdish children of 16-17 years of age who had reportedly been executed in January 1987 and 17 children of 14-17 years of age reportedly executed in November/December 1987. The bodies of the minors were said to have been returned to their families and money demanded of the latter in payment of bullets, coffins and transport.

57. Lastly, she reiterated the question put by Mr. Myullerson and other members of the Committee concerning events on 16-17 March 1987 in Halabja, where the population had been bombarded with chemical weapons and 5,000 persons had reportedly been killed, and requested the comments of the delegation on that matter.

58. The CHAIRMAN appealed to the Iraqi delegation, when preparing its answers, to take into account the observations of members of the Committee that the Committee's questions were not concerned with the performance of obligations arising from Security Council recommendations or international instruments other than the International Covenant on Civil and Political Rights, for which the Committee had competence independently of whether there were obligations with similar content arising from other international instruments.

The meeting rose at 6.15 p.m.